

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 05-20859-CR-HUCK(s)(s)(s)
18 U.S.C. § 371

UNITED STATES OF AMERICA

vs.

RICHARD LACLE,

Defendant.

FILED BY _____
2006 OCT 20 AM 10:20
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FL. - MIAMI

SUPERCEDING INFORMATION

The United States Attorney charges that:

From on or about December 17, 1998 to on or about March 15, 2002, in Miami-Dade County in the Southern District of Florida and elsewhere, the defendant,

RICHARD LACLE,

did knowingly and willfully combine, conspire confederate and agree with Raul J. Gutierrez and others, both known and unknown, to structure, and assist in the structuring of transactions with domestic financial institutions, that is writing checks for cash in amounts less than \$10,000, knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a) and the regulations promulgated thereunder in violation of Title 31, United States Code, Section 5324(a)(3) and 5324(d)(1) and Title 31, Code of Federal Regulations, Section 103.11.

Overt Acts

In furtherance of the conspiracy and to achieve the objects and purposes thereof, the defendant committed or caused to be committed, in the Southern District of Florida and elsewhere, at least one of the following overt acts, among others as listed below:

1. On or about July 30, 2001, the defendant, **RICHARD LACLE**, did write check number 1440 to cash in the amount of \$9,500 on the account of Richard A. Lacle and M. L. at the Mellon United National Bank in Miami, Florida.

2. On or about July 31, 2001, the defendant, **RICHARD LACLE**, did write a check number 1443 to cash in the amount of \$9,670 on the account of Richard A. Lacle and M. L. at the Mellon United National Bank in Miami, Florida.

3. On or about August 2, 2001, the defendant, **RICHARD LACLE**, did write a check number 1450 to cash in the amount of \$9,000 on the account of Richard A. Lacle and M. L. at the Mellon United National Bank in Miami, Florida.

4. On or about August 3, 2001, the defendant, **RICHARD LACLE**, did write a check number 1452 to cash in the amount of \$8,500 on the account of Richard A. Lacle and M. L. at the Mellon United National Bank in Miami, Florida.

5. On or about November 8, 2001, the defendant, **RICHARD LACLE**, did write check number 1479 to cash in the amount of \$9,500 on the account of Richard A. Lacle and M. L. at the Mellon United National Bank in Miami, Florida.

All in violation of Title 18, United States Code, Section 371.



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



RICHARD D. GREGORIE
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. 05-20859-CR-HUCK(s)(s)(s)

vs.

RICHARD LACLE,

CERTIFICATE OF TRIAL ATTORNEY*

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami Key West
 FTL WPB FTP

New Defendant(s)

Yes No X

Number of New Defendants

Total number of counts

1

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) Yes
List language and/or dialect Spanish

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	<u>X</u>	Petty	<u> </u>
II	6 to 10 days	<u> </u>	Minor	<u> </u>
III	11 to 20 days	<u> </u>	Misdem.	<u> </u>
IV	21 to 60 days	<u> </u>	Felony	<u>X</u>
V	61 days and over	<u> </u>		

6. Has this case been previously filed in this District Court? (Yes or No) Yes

If yes:

Judge: Paul C. Huck

Case No. 05-20859-CR-HUCK(s)(s)

(Attach copy of dispositive order)

Has a complaint been filed in this matter?

(Yes or No)

If yes:

Magistrate Case No.

Related Miscellaneous numbers:

Defendant(s) in federal custody as of

Defendant(s) in state custody as of

Rule 20 from the

District of

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? Yes X No

8. Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? Yes X No
If yes, was it pending in the Central Region? Yes No

9. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes X No

10. Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? Yes X No



RICHARD D. GREGORIE
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 0549495

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE No. 05-20859-CR-HUCK(s)(s)(s)

UNITED STATES OF AMERICA

v.

RICHARD LACLE,

Defendant.

PLEA AGREEMENT

The United States of America, by and through the undersigned Assistant United States Attorney, and RICHARD LACLE, (hereinafter referred to as the "defendant"), enter into the following agreement:

1. The defendant agrees to waive his right to indictment and to plead guilty to the Superceding Information which charges that from December 17, 1998 to and including March 15, 2002, the defendant conspired to structure transactions to evade reporting requirements, involving a total of more than \$70,000 but less than \$120,000 in funds, in violation of Title 31, United States Code, Section 5324(d)(1); all in violation of Title 18, United States Code, Section 371.

2. The defendant is aware that the sentence for this offense will be imposed by the court considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is

also aware that, under certain circumstances, the court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

3. The defendant also understands and acknowledges that the court may impose a term of imprisonment of up to five years, followed by a term of supervised release of up to three years. In addition to a term of imprisonment and supervised release, the court may impose a fine of up to \$250,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph two of this agreement, a special assessment in the amount of \$100 will be imposed on the defendant. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing.

5. The Office of the United States Attorney for the Southern District of Florida, (hereinafter "Office"), reserves the right to inform the court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offense committed, whether

charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

6. The United States agrees that it will recommend at sentencing that the court reduce by three (3) levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(b) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. The United States, however, will not be required to make this recommendation if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure to the probation office of his involvement in the offense of conviction; (2) is found to have misrepresented facts to the government prior to entering this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

7. The United States and the defendant agree that the factual basis for the plea are the facts in Paragraph 1; the parties also agree that, although not binding on the probation office or the court, they will jointly recommend that the court make the following findings and conclusions as to the sentence to be imposed:

a. Applicable Guidelines Manual: That the 2001 Guidelines Manual is the proper manual to be used in calculating the defendant's advisory sentencing range;

b. Advisory sentencing range: That the applicable guideline to be used in calculating the defendant's advisory sentencing range is U.S.S.G. § 2X1.1; that under § 2X1.1(a), the

defendant's base offense level and adjustments are calculated using § 2S1.3; that under § 2S1.3(a), the Base Offense Level is 14, which represents a Base Offense Level of 6 plus an additional 8 levels based on a total amount between \$70,000 and \$120,000 in structured transactions, pursuant to § 2B1.1(b)(1)(E); that under § 2S1.3(b)(1), 2 levels are added because the defendant knew or believed that the funds were proceeds of unlawful activity; and that under § 3E1.1(b), 3 levels are subtracted for acceptance of responsibility (contingent on the satisfaction of the conditions enumerated above in paragraph 6); all resulting in a total offense level of 13. Assuming that the defendant is determined to have a criminal history category of I, a total offense level of 13 results in an applicable advisory guideline range for the defendant of 12 to 18 months.

c. Sentencing recommendation: That, based on consideration of the advisory sentencing range and the sentencing factors of 18 U.S.C. § 3553(a), the United States and the defendant agree that the defendant should be sentenced to 18 months' imprisonment and no fine and that such a sentence is the reasonable sentence under the circumstances of this case.

d. Sentencing hearing: That, because the defendant was not charged in the fraud conspiracies, the defendant's sentencing hearing be separated from and not part of any joint sentencing hearing to which any co-defendant is joined.

8. The defendant has agreed to plead guilty to the one count Superseding Information which charges a violation of Title 18, United States Code, Section 371 that does not carry a forfeiture provision. That notwithstanding, the defendant agrees and consents to forfeit to the United States voluntarily and immediately all of any right, title and interest of his or entities controlled by him in the following two properties:

- (1) 12850 S.W. 57th Ave., Pinecrest, FL; and

(2) 13500 S.W. 63rd Ave., Pinecrest, FL;

which are subject to forfeiture pursuant to Title 18, United States Code, Section 981(a). The defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of these properties. The defendant also agrees that the defendant shall assist this Office in all proceedings, whether administrative or judicial, involving the forfeiture to the United States of all right, title, and interest in the above properties, including delivery to this Office upon this Office's request, all necessary and appropriate documentation with respect to the properties, including consents to forfeiture, quit claim deeds and any and all other documents necessary to deliver good and marketable title to said properties. Such assistance will also involve an agreement on defendant's part to the entry of an order enjoining the transfer or encumbrance of the properties.

9. The defendant knowingly and voluntarily agrees to waive any claim or defense he may have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeited properties.

10. The defendant is aware that the sentence has not yet been determined by the court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise and is not binding on the government, the probation office or the court. The defendant understands further that any recommendation that the government makes to the court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the court and the court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that the defendant may not withdraw his plea based upon the court's decision not to accept a sentencing

recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

11. The defendant is aware that Title 18, United States Code, Section 3742, affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Title 18, United States Code, Section 3742, to appeal any sentence imposed, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute, or exceeds a guideline range encompassing the sentencing recommendation, or is the result of an upward departure from the guideline range that the court establishes at sentencing. This appeal waiver includes a waiver of the right to appeal the sentence on the ground that the sentencing guidelines are in any respect unconstitutional, or on the grounds that any fact found by the Court at sentencing was not alleged in the information, admitted by the defendant, found by a jury, or found beyond a reasonable doubt. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights, except for the waiver of appeal on the ground that the sentencing guidelines are in any respect unconstitutional. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney. The defendant further agrees, together with the United States, to request that the district court enter a specific finding that the defendant's waiver of his right to appeal the sentence imposed in this case was knowing and voluntary.

12. The United States agrees to dismiss with prejudice after sentencing any and all indictments filed in this case as to the defendant. The United States also agrees, in consideration of the defendant's guilty plea, that, except for the one-count Superseding Information mentioned in paragraph 1, the defendant shall not be prosecuted in the Southern District of Florida for any other non-violent offense or criminal conduct which he may have committed prior to this agreement and which is related to the investigations encompassed by Case No. 05-20859-CR-Huck and is known to the United States.

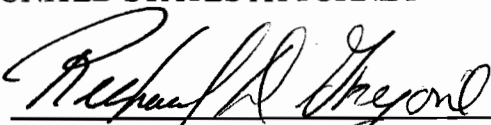
13. The United States agrees as follows: That at the defendant's plea hearing it shall not object to the defendant's request to travel to and from the United States pending sentencing; and that at the defendant's sentencing, it shall not object to the defendant's request for a voluntary surrender or for a judicial recommendation designating a specific prison facility.

14. This is the entire agreement and understanding between the United States and the


defendant. There are no other agreements, promises, representations, or understandings.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

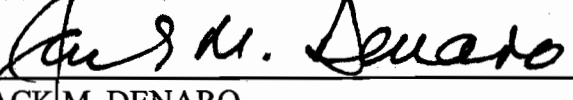
Date: 10/24/06

By: 
RICHARD D. GREGORIE
ASSISTANT UNITED STATES ATTORNEY

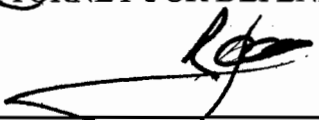
Date: 10/24/06

By: 
MATTHEW S. AXELROD
ASSISTANT UNITED STATES ATTORNEY

Date: 10/24/06

By: 
JACK M. DENARO
ATTORNEY FOR DEFENDANT

Date: 10/24/06

By: 
RICHARD LACLE
DEFENDANT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE No. 05-20859-CR-HUCK(s)(s)(s)

UNITED STATES OF AMERICA

v.

RICHARD LACLE,

Defendant.

CONSENT TO FORFEITURE

The defendant, RICHARD LACLE, consents and agrees to forfeit to the United States voluntarily and immediately all of his rights, title and interest to the following properties which are subject to forfeiture pursuant to Title 18, United States Code, Sections 982 (a) (2)(A), 981 (a)(1)(c) and Title 28, United States Code, Section 2461(c):

(1) one piece of real property located at 12850 S.W. 57th Ave., Pinecrest, FL;

(2) one piece of real property located at 13500 S.W. 63rd Ave., Pinecrest, FL.

Defendant acknowledges that Inversiones Rapidven S.A., an entity controlled by him, is a straw owner of the property located at 12850 Red Road, Coral Gables, FL 33156 and that the true and beneficial owner is Raul Gutierrez. Defendant further acknowledges that Inversiones Lastraval, S.A., an entity controlled by him, is a straw owner of the property located at 13500 S.W. 63rd Ave., Pinecrest, Florida and that Steve Ferguson is the real and beneficial owner of said property. The defendant agrees to execute any and all documents necessary to transfer his right, title, and interest in both pieces of real property to the United States to be disposed of according to law.

Defendant agrees that the aforementioned property is property constituting or derived from any proceeds obtained, directly or indirectly, as a result of unlawful activities or was used or intended to be used, in any manner or part, to commit or facilitate the commission of unlawful activities charged in the indictment, or is substitute asset for said violations, and is therefore subject to forfeiture pursuant to Title 18 United States Code, Sections 982 (a)(2)(A), 981 (a)(1)(C) and 28, United States Code, Section 2461 (c). The defendant knowingly and voluntarily waive any claim or defense he may have under the Eighth Amendment to the United States Constitution with respect to the forfeited assets. The defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of assets.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Date: _____

By: _____
RICHARD D. GREGORIE
ASSISTANT UNITED STATES ATTORNEY

Date: _____

By: _____
MATTHEW S. AXELROD
ASSISTANT UNITED STATES ATTORNEY

Date: _____

By: _____
JACK M. DENARO
ATTORNEY FOR DEFENDANT

Date: _____

By: _____
RICHARD LACLE
DEFENDANT